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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,868	10/25/2001	Gerald Harris	340800014COB	6762

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/074,868

Applicant(s)

HARRIS, GERALD

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first Office Action for serial number 10/074,868, Overboot For A Bi-Pod Adapter, filed on October 25, 2001. Claims 20-34 are pending.

#### ***Priority***

This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "This is a continuation of Application No. 09/094,284, filed June 9, 1998." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "cord removably

ties to the upper portion of the overboot" recited in claims 30 and 34 must be shown or the feature canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 24 is objected to because of the following informalities: on line 3, "overboot" should be --foot-- since the fingers define a recess surrounding the foot. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-31 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

Claim 20 recites the limitation "the floor" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the axially extending fingers" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-24, 27, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,711,103 to Keng in view of U.S. Patent 5,713,382 to Midcap in view of U.S. Patent 4,964,430 to Janis, and further in view of U.S. Patent 2,799,287 to Wagner. Regarding claims 20-24, 27, and 31, Keng discloses a multi-legged firearm support assembly (10) comprising: a mounting block (16), two downwardly extending legs (57,58) each connected to the mounting block and having a width and a foot portion (81), wherein the foot portion includes a generally cylindrical upper portion (adjacent 79) and a lower portion (at 81). Keng does not disclose the lower portion having the shape of a truncated cone. Midcap discloses a foot portion (100) having a generally cylindrical upper portion (110) and a truncated cone-shaped lower portion (120) with a maximum diameter substantially greater than the substantially constant diameter of the upper portion (110). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the foot portion of Keng by providing a lower portion having the shape of a truncated cone because one would have been motivated to provide better stability on sand and gravel as taught by Midcap (Abstract, lines 1-5 and col. 2, lines 8-12). Keng in view of Midcap does not disclose the firearm support assembly including an overboot in combination

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with the foot portion. Janis discloses a thin walled, flexible overboot (Fig. 3) for a foot portion (6) comprising: an upper portion circumferentially surrounding the foot portion (portion of 2 that is adjacent 4), a flat floor (8) having a plurality of concentric triangular ribs (1), a cylindrical, lower portion (at 2 generally) extending upwardly from the floor (8) to interconnect the floor (8) and upper portion, and a band/cord (5) removably encircling the upper portion of the overboot; wherein the upper portion includes a plurality of triangularly shaped slots (3) creating a plurality of axially extending fingers (see near 4) which define a continuous annular recess and accommodating circumferential constriction of the upper portion about the foot portion (6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the firearm support assembly by providing an overboot attached to the foot portion because one would have been motivated to prevent slippage of the feet on ice or packed snow as taught by Janis (col. 1, lines 5-8). Keng in view of Midcap in view of Janis does not disclose the cylindrical, lower portion (at 2 generally) being conical and extending outwardly from the floor (8). Wagner discloses a foot portion (T) combined with an overboot (Fig. 1), wherein the overboot closely envelops the sides and bottom of the foot portion (T). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot to be sized and shaped identical to the foot portion (i.e. provide a truncated cone-shaped lower portion) because one would have been motivated to prevent relative movement between the overboot and foot portion as taught by Wagner (col. 1, lines 56-61). Regarding claim 30, Keng in view of Midcap in view of Janis and further in view of Wagner fails to disclose the cord being

removably tied about the wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing a tied cord type band since it is well known in the art to alternatively connect members by a tied cord, for instance by lashing members together in a clamped arrangement.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner, and further in view of U.S. Patent 4,630,626 to Urban. Keng in view of Midcap in view of Janis in view of Wagner discloses the overboot and foot combination as applied to claim 20 above, but does not disclose the concentric ribs (1) extending radially between the floor and upper portion of the overboot. Urban discloses an overboot (fig. 4) comprising: a cylindrical upper portion (3) for engaging a foot portion and a truncated cone-shaped lower portion (4) with a plurality of concentric ribs (10) radially extending between a floor (at 10 generally) and the upper portion (3) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing concentric ribs extending radially between the floor and upper portion of the overboot because one would have been motivated to increase surface contact and prevent slippage of the feet as taught by Urban (col. 1, lines 52-55).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner and further in view of U.S. Patent 612,685 to Thorp et al (Thorp). Regarding claim 28, Keng in view of Midcap in view of Janis in view of Wagner discloses the overboot and foot combination as applied to claims 20-24, 27, and 31 above, but does not teach the fingers (see near 4) forming a

recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from slipping off the overboot as taught by Thorp (lines 61-66).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner and further in view of U.S. Patent 4,947,882 to Levasseur. Regarding claim 29, arguably, the band/cord of Janis comprises a pliant strap (column 2, line 65 described as adjustable) inherently having a diameter, in a relaxed state, less than the diameter of the upper portion of the overboot in a disengaged state (otherwise the band would not be able to clamp the overboot on the foot portion). Nonetheless, Levasseur discloses an overboot (3) including a spring/cord (60) inherently having a smaller diameter than the diameter of the upper portion (51 generally) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the overboot with a spring-type band as a well known art equivalent means for clamping the upper portion of the overboot as taught by Levasseur.

Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Urban, and further in view of Thorp. Regarding claim 32, Keng in view of Midcap in view of Janis in view of Wagner in view of Urban discloses the overboot and foot combination as applied



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to claim 25 above, but does not teach the fingers (see near 4) forming a recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from slipping off the overboot as taught by Thorp (lines 61-66). Regarding claim 34, Keng in view of Midcap in view of Janis in view of Wagner in view of Urban in view of Thorp fails to disclose the cord being removably tied about the wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing a tied cord type band since it is well known in the art to alternatively connect members by a tied cord, for instance by lashing members together in a clamped arrangement.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Urban in view of Thorpe as applied to claim 32 above, and further in view of Levasseur. Regarding claim 33, arguably, the band/cord of Janis comprises a pliant strap (column 2, line 65 described as adjustable) inherently having a diameter, in a relaxed state, less than the diameter of the upper portion of the overboot in a disengaged state (otherwise the band would not be able to clamp the overboot on the foot portion). Nonetheless, Levasseur discloses an overboot (3) including a spring/cord (60) inherently having a smaller diameter than the diameter of the upper portion (51 generally) of the overboot. It would have been

obvious to one of ordinary skill in the art at the time the invention was made to have provided the overboot with a spring-type band as a well known art equivalent means for clamping the upper portion of the overboot as taught by Levasseur.

### ***Response to Arguments***

Applicant's arguments with respect to claims 20-34 have been considered but are moot in view of the grounds of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

624207 to Hawley, Jr; 840892 to Adam; 960700 to Pratt; 1406453 to Fanning; 2447080 to Meier; 2904128 to Boham et al; 3445082 to Proctor et al; 4027687 to McGowan; 4470216 and 4625620 to Harris; 4841839 to Stuart; 5194678 to Kramer; 5307828 to Gardner et al; 5377710 to Laser; 5421115 to McKay; 5815974 to Keng; 5913668 to Messer; 6044747 to Felts; 6305116 to Parker; 6324725 to Green; 6374841 to Yamamoto et al; Swiss 139685 to Svensson

The above references disclose foot supports/overboots and firearm support assemblies relevant to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703)

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305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 308-2168.

  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
6/17/02

  
ANITA KING  
PRIMARY EXAMINER